

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:

JAMES M. WOODS,

Respondent

HUDALJ 93-2067-DB(R)
Decided: October 27, 1993

James M. Woods, *pro se*

Bryan Parks Saddler, Esq.
For the Government

Before: ALAN W. HEIFETZ,
Chief Administrative Law Judge

DETERMINATION AND RECOMMENDATION CONCERNING REINSTATEMENT

On July 21, 1993, James M. Woods ("Respondent")¹ sought reinstatement from an indefinite debarment sustained on October 27, 1988. The Office of Administrative Law

Judges received this request on August 19, 1993, and on August 23, 1993, a Notice of Docketing and Order was issued. Respondent was directed to file his written submission in support of his request for reinstatement by September 23, 1993, and the Government (or "HUD") was ordered to file its response by October 21, 1993. Both parties timely filed their submissions and this matter is ripe for decision.

Findings of Fact

Petitioner's Previous Debarments

¹The Watts Community Housing Corporation is not a party and has been removed from the caption of this case.

1. On May 12, 1983, Petitioner was informed by certified mail that HUD was proposing to debar him from participation in HUD programs for five years. The debarment proposal was based on violations of the Regulatory Agreement he signed as president of the mortgagor entity for Watts Arms I and II. Both projects are HUD Owner-managed Multifamily Housing. Secretary's Exhibit ("S-Ex.") A, I.

2. Petitioner did not request a hearing on HUD's proposed debarment. On July 29, 1983, he was debarred until May 11, 1988. The debarring official ordered that Petitioner may not be a participant in HUD programs. Additionally, he ordered that "[d]epartment funds not be expended for financial assistance to Mr. Woods, nor to any concern, corporation, partnership, or association in which he has a substantial interest; bids or proposals shall not be solicited from him...." S-Ex. B.

3. On July 23, 1985, Petitioner requested an early reinstatement from his debarment. Because the administrative judge found that reinstatement would not be in the Government's best interest, he recommended against Petitioner's reinstatement on April 24, 1986. S-Ex. C.

4. HUD informed Petitioner on May 27, 1987, that it was proposing to debar him indefinitely because he violated the terms of his five-year debarment. The Government based this proposal on Petitioner's representation of the Watts Community Housing Corporation ("WCHC") in meetings with HUD and his interference with G & K Management Company, the HUD-approved management agent for Watts Arms II. S-Ex. D.

5. On June 7, 1988, Petitioner requested a hearing to appeal the proposed indefinite debarment. S-Ex. E.

6. On June 29, 1988, Petitioner was ordered to file his response in the hearing by August 29, 1988. This deadline was extended to October 21, 1988. S-Ex. F.

7. Because Petitioner never filed a response, his appeal was dismissed and he was debarred indefinitely on October 27, 1988. S-Ex. F.

Petitioner's Actions During His Indefinite Debarment

8. Petitioner wrote to HUD Secretary Cisneros on June 30, 1993, concerning the ownership of Watts Arms I. He wrote the letter on the WCHC's letterhead, and signed it as the Corporation's "Secretary/Cultural Developer." S-Ex. G.

9. On July 16, 1993, Petitioner wrote California Senator Feinstein concerning management of Watts Arms I and II. This letter was also on the letterhead of the WCHC, and was signed in Petitioner's capacity as "Secretary/Cultural Developer." S-Ex. H.

10. Petitioner is listed as a member of the WCHC's Board of Directors.

Discussion, Conclusion and Order

The regulations in effect at the time of Petitioner's indefinite debarment provide, *inter alia*, that a hearing officer shall recommend whether or not reinstatement is warranted

...upon proof that the causes for the sanction have been eliminated and upon certification that the requirements of applicable statutes and administrative rules and regulations are understood by the participant or contractor and will be followed in the future...

24 C.F.R. § 24.15(a)(2) (1988).

Petitioner's indefinite debarment was caused by his violation of his previous five-year debarment. Specifically, he attempted to represent the WCHC in meetings with HUD, and he interfered with the HUD-approved management agent in the management of Watts Arms II. In his request for reinstatement, Petitioner offered only the bald assertion that he has not interfered with the on-site management operations of the WCHC and has not "participated in assistance transactions" as it relates to the WCHC's ownership of Watts Arms I and II. Additionally, he declares that he understands the requirements of the applicable statutes and administrative rules and regulations.

The record evidence does not support his assertions; rather, it weakens them. Under the terms of his five-year debarment, Petitioner was forbidden to participate in HUD programs in any capacity. Nevertheless, he continued to be involved in a violative capacity with two HUD projects, Watts Arms I and II. Subsequently, his debarment was continued indefinitely. During the period of his latest debarment, he continued (and continues) to be involved with the WCHC. The Corporation's Board of Directors includes Petitioner. Additionally, he has written letters to the Secretary of HUD and California Senator Feinstein on behalf of the WCHC in his capacity as Secretary/Cultural Developer.

Contrary to Petitioner's unsupported position, this participation with the WCHC continues to violate the terms of his debarment. In support of his reinstatement, Petitioner claims cryptically that he has "followed instructions given by WCHC's board of directors" to serve as Secretary/Cultural Developer. He also includes a letter from a consultant to the WCHC that avers that Petitioner's eligibility to serve of the WCHC's Board of Directors is determined solely by the WCHC. These assertions only serve to demonstrate that the cause for debarment relating to the WCHC has not been eliminated. Petitioner's arguments demonstrate his lack of understanding of the applicable statutes and administrative rules and regulations. Furthermore, Petitioner makes no assertion that the second cause of his debarment, his interfering with the HUD-approved management agent of Watts Arms II, has ceased. Therefore, there are additional grounds for concluding that Petitioner has not shown that a cause for the

sanction has been eliminated, as required by the regulation.

Having considered all the record evidence, I conclude that there is insufficient evidence to recommend reinstatement of Petitioner. Accordingly, I recommend that Petitioner's debarment remain in effect.

ALAN W. HEIFETZ
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of this DETERMINATION issued by ALAN W. HEIFETZ, Chief Administrative Law Judge, HUDALJ 93-2067-DB(R), were sent to the following parties on this 27th day of October, 1993, in the manner indicated:

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